THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.12596 OF 2006

ORAL ORDER:

This writ petition is filed seeking a declaration that the action of the respondents 5 to 7 in inviting tenders from all classes of contractors for cable construction works, is arbitrary and illegal.

The petitioners claim to be class A contractors, who were enlisted as such with the 2nd respondent. It is stated that all the petitioners have been engaged in the business of laying underground cables for various public sector organizations, including BSNL. While so, the second respondent invited applications from contractors for enlistment under various classes in the month of May/June, 2003. In pursuance thereof, the petitioners were enlisted as class A1 contractors vide proceedings dated 6.11.2003 and 19.11.2003. It is stated that for being enlisted as class A1 contractors, one should have permanent engineering organization with at least one graduate engineer in Electrical/Electronics/Telecom discipline, or a retired engineering officer from the department of Telecom/BSNL not below the rank of Divisional Engineer with a minimum of 5 well trained cable jointers for copper cables and suitable complimentary staff capable of dealing with large works at all stages. While so, respondents 5 to 7 herein, published notice dt. 12-6-2006 inviting tenders for trenching and PLB pipe laying works in defence area OFC routes, Hyderabad and etc. Under the said notices not only the contractors enlisted as class A1, but the other contractors enlisted as class A & B with BSNL/Telecom Circles and class C & D with SSA Heads under A P Circle were also made eligible to participate. The petitioners contended that the said action of the respondents 5 to 7 is contrary to the Rules and Regulations for enlistment of contractors, which specifically mandates calling tenders from class A1 contractors, where the work proposed in the NIT or the works being conducted in Hyderabad SDCA, which has more than 3 lakh lines. It is contended

that since the Hyderabad Telecom District is SDCA having more than 3 lakh lines, only class A 1 contractors are eligible to participate in the tender as per clause 11 of the Instructions for Enlistment of Contractors. Hence, this writ petition.

On behalf of the respondents, a detailed counter affidavit has been filed by the Divisional Engineer (Technical), Office of the General Manager, Transmission Projects, Hyderabad, BSNL, denying all the allegations, and stating that all the contractors enlisted as A1, A and B class contractors with BSNL Telecom Circle and C & D class contractors with heads of SSAs are eligible to participate in the tenders in question, as per the eligibility criteria listed in Rule 2 of the Procedure for Enlistment Manual issued by the BSNL.

I have heard the learned counsel for both the parties and perused the material on record.

As per Rule 2 of Instructions for Enlistment of Contractors in BSNL for Cable Construction Works, all classes of contractors i.e., Class A1, Class A, Class B, Class C and Class D, are eligible to carry out any type of OFC in any SDCA.

In the counter-affidavit, it was explained that the contractors of all the classes mentioned above are required to have technical and supporting staff. It is also clear from the counter affidavit that the works published in the impugned tender notices deal with defence Network OFC routes falling within the city limits of Hyderabad, which is an SDCA. Hence, the contractors enlisted under class D are also entitled to take up the works along with Class A1, Class A, Class B and Class D contractors. It is true that class D contractors are eligible to carry out OFC works only on intra-SDCA routes. Admittedly, the OFC works notified in the impugned tender notices fall in intra SDCA routes. Hence, I do not find any substance in any of the contentions raised by the petitioners. The contention that Class A1 contractors alone are eligible to participate in NIT works in Hyderabad SDCAs, is without any basis, and nothing has been placed before this Court to substantiate the said contention of the petitioners.

For the aforesaid reasons, the writ petition is devoid of any merit, and the same is accordingly, dismissed. No costs.

_____

(G. ROHINI, J.)

21st July, 2006.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

-
-
-
-
-
-
-
-
-

WRIT PETITION No.12596 OF 2006

Placed in Web: Yes

21st July, 2006.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.12596 OF 2006

21st July, 2006.

Between:

S.K. Arshad and others. .. Petitioners.

And

The Chairman-cum-Managing Director,
Bharat Sanchar Nigam Limited,
B-148, Statesman House,
Barkhamba Road, New Delhi and others. ..
Respondents.